

Congress of the United States

Washington, DC 20515

July 26, 2002

The Honorable Ann M. Veneman
Secretary
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Veneman:

On July 19, the U.S. Department of Agriculture (USDA) recalled 19 million pounds of meat produced by the ConAgra Beef Company in Greeley, Colorado because of suspected contamination with the life-threatening bacteria *E. coli* O157:H7. Some of the recalled product had left the ConAgra facility in mid-April. During the intervening three months, thousands of American consumers were placed at risk and at least 20 people fell ill in Colorado, California, Michigan, South Dakota, Washington and Wyoming.¹ Bacteria from the ConAgra facility has caused seven people to be hospitalized and five to suffer life-threatening complications.²

The long delay between contamination and recall is striking. A review of the timeline as indicated by press releases and statements on USDA's web site reveals:

- 68 days between the production of the first meat packages eventually to be recalled (April 12) and an *E. coli* O157:H7 test confirmed to USDA (June 19).
- 11 days between a positive *E. coli* O157:H7 test confirmed to USDA and an initial recall of 354,200 pounds of meat on June 30.
- 15 days between the initial recall and the first "in-depth investigation into the situation at hand" by USDA on July 15.
- 4 more days before the full recall of 19 million pounds of meat on July 19.

We have learned that even today, the Centers for Disease Control and Prevention (CDC) may not have access to critical information about all *E. coli* O157:H7 strains found at the ConAgra facility. As a result, public health officials may fail to link several as-yet-unexplained *E. coli* O157:H7 outbreaks to the ConAgra plant and consequently may fail to identify all of the human consequences of the contamination there.

We are writing with questions about ConAgra's actions, USDA's response, and CDC's access to information.

¹CDC, Backgrounder (July 23, 2002) (online at <http://www.cdc.gov/od/oc/media/pressrel/b020723.htm>).

²*Id.*

What Did ConAgra Know and When?

While USDA apparently only became aware of positive *E. coli* O157:H7 results in mid-June, the eventual recall included contaminated meat produced as early as April 12. As a major meat producer, ConAgra is required to have in place a Hazard Analysis and Critical Control Point (HACCP) program that includes routine *E. coli* testing. This testing can signal possible contamination with disease-causing bacteria such as *E. coli* O157:H7, which is known to cause serious injury and death. Most major meat producers also conduct regular and more specific testing for *E. coli* O157:H7. According to USDA, a review of company records eventually uncovered evidence serious enough to warrant a recall of all meat produced between April 12 to July 11.³ This suggests that problems may have been known to ConAgra as early as April.

In a news conference on July 19, you stated, "ConAgra has been very cooperative throughout this review process."⁴ If this is the case, we believe you should be able to answer the following questions:

- When did ConAgra first become aware of positive *E. coli* tests from the meat that would eventually be recalled? When was this information made available to USDA inspectors or sent to USDA?
- In addition to routine *E. coli* testing, did ConAgra check for *E. coli* O157:H7 in any meat produced between April 12 and July 11? Please report the dates as well as both the preliminary and final results of this testing. If any such testing was positive, how soon after receiving the results did ConAgra notify USDA of the presence of *E. coli* O157:H7?

We also request that you provide copies of any correspondence or notes of conversations related to food safety that have taken place between USDA officials and ConAgra Beef Company employees since April 12, 2002. We further request the results of all *E. coli*, *E. coli* O157:H7, and *Salmonella* testing at the ConAgra facility, and copies of any correspondence in USDA's possession relating to the safety of meat produced by ConAgra Beef Company since January 2001.

³U.S. Department of Agriculture, *Press Conference with Secretary of Agriculture Ann M. Veneman and Undersecretary for Food Safety Elsa Murano Regarding the ConAgra Beef Company Recall* (July 19, 2002) (online at <http://www.usda.gov/news/releases/2002/07/0297.htm>).

⁴*Id.*

Did USDA Act Quickly Enough?

According to a USDA press release, the Food Safety Inspection Service (FSIS) became involved in this case on June 14, when “an FSIS inspector took a sample at a facility that further processes coarse ground beef.”⁵ The press release stated, “On June 19, following the minimum five-day period required to confirm the presence or absence of *E. coli* O157:H7, the sample tested positive.” At that time, an “FSIS investigation was launched to determine all possible sources of the pathogen.” Once ConAgra was “identified as the source of the contamination,” a recall was “triggered.” This recall, announced on June 30, was limited to 354,200 pounds of beef produced on May 31, 2002.⁶

The USDA’s timeline raises several questions about the speed and thoroughness of the first recall:

- The Denver Post has reported that “USDA first suspected on May 14 that ConAgra meat might be tainted” on the basis of a positive sample at Galligan’s Wholesale Meat Co.⁷ The Denver Post also reported that followup tests on June 12 and 14 were positive for *E. coli* O157:H7 in batches of meat produced at the ConAgra facility, with the results available on June 17 and June 19.⁸ Is this alternate timeline correct? If so, why did the USDA press release only refer to the positive result on June 19?
- According to Food Safety Inspection Service (FSIS) Directive 10,010.1, preliminary *E. coli* O157:H7 results are available within two days of sample collection and should be reported to the FSIS District Office “by the close of business the day the screening test was completed.”⁹ If the first test was taken on July 14, then the preliminary test should

⁵U.S. Department of Agriculture, *Statement -- ConAgra Beef Recall by Linda Swacina, Acting Administrator, Food Safety And Inspection Service* (July 15, 2002) (online at <http://www.fsis.usda.gov/OA/news/2002/swacina071502.htm>).

⁶U.S. Department of Agriculture, *Colorado Firm Recalls Ground Beef Products For Possible E. coli O157:H7* (June 30, 2002) (online at <http://www.fsis.usda.gov/OA/recalls/prelease/pr055-2002a.htm>).

⁷*Tainted Beef Found Weeks Before Recall*, Denver Post (July 14, 2002).

⁸*Id.*

⁹U.S. Department of Agriculture, *Microbiological Testing Program for Escherichia Coli O157:H7 in Raw Ground Beef*, FSIS Directive 10, 010.1 (Feb. 1, 1998).

have been reported by June 16 to the FSIS district office. What action was taken at this time?

- Eleven days passed between the confirmation of a potentially lethal *E. coli* strain on June 19 and the recall on June 30. Please provide a day-by-day description of what happened in the investigation during each of these 11 days.
- According to the Denver Post, the ConAgra facility was not notified of the concern about its products until June 29, the day prior to the recall.¹⁰ What explains this delay?
- When the recall order was made, only meat produced on May 31 was included. However, as a major producer of beef, ConAgra Beef Company routinely tests for *E. coli* and may also regularly test for *E. coli* O157:H7. By June 19, when the USDA investigation began, ConAgra Beef Company may have already completed tests on beef samples from both before and after May 31. During its initial investigation, did USDA request all *E. coli* and *E. coli* O157:H7 results from ConAgra? If not, why not?
- Eventually, meat products produced as late as July 11 were recalled. This means that even as USDA was investigating *E. coli* O157:H7 contamination from a May 31 sample, contamination may have been ongoing. Did USDA investigators take any samples from ConAgra between June 19 and July 11? If not, why not?

We now know that during the 11 days when USDA was investigating the positive sample result, Americans fell ill from eating contaminated meat. According to Under Secretary for Food Safety Elsa A. Murano, USDA first learned of the outbreak of human *E. coli* O157:H7 illness on July 10.¹¹ Five days later, according to Dr. Murano, CDC informed USDA that the bacteria causing the outbreak had the same molecular fingerprint as that found at ConAgra.¹² “Upon learning about this,” you told reporters at the July 19 press conference, “the U.S. Department of Agriculture immediately dispatched an additional team of food safety scientists and other experts to that facility to begin an in-depth investigation into the situation at hand.”¹³ This team then

¹⁰*Tainted Beef Found Weeks Before Recall*, Denver Post (July 14, 2002).

¹¹U.S. Department of Agriculture, *Press Conference with Secretary of Agriculture Ann M. Veneman and Undersecretary for Food Safety Elsa Murano Regarding the ConAgra Beef Company Recall* (July 19, 2002) (online at <http://www.usda.gov/news/releases/2002/07/0297.htm>).

¹²*Id.*

¹³*Id.*

conducted a “scientific and technical review of plant practices and company records” which resulted in the massive recall announced on July 19, covering beef produced between April 12 and July 11.¹⁴

Although Dr. Murano told reporters at the press conference that “there was no delay” in USDA’s actions,¹⁵ this timeline also raises questions:

- CDC reports hearing about the outbreak of *E. coli* O157:H7 infections on July 8,¹⁶ while Dr. Murano says USDA heard about it on July 10.¹⁷ Why was there a two-day delay before USDA heard about human illnesses?
- By July 15, *E. coli* O157:H7 had been traced back to the ConAgra plant, 354,200 pounds of meat had been recalled, and there were outbreaks of human illness. Why was “an in-depth investigation into the situation at hand” only begun after the human strain of *E. coli* O157:H7 was proven identical to the ConAgra strain?
- Your statement at the press conference that a “scientific and technical review of plant practices and company records” was the proximate trigger for the massive recall suggests that ConAgra’s records of *E. coli* and/or *E. coli* O157:H7 testing were reviewed only after July 15. Is this true? If so, why did USDA not conduct such a review back in mid-June when it was investigating the initial positive test result?
- What were the exact findings in ConAgra records that caused the extended recall on July 19? What factors determined the dates of meat production covered in the recall?

¹⁴*Id.*

¹⁵*Id.*

¹⁶CDC, Backgrounder (July 23, 2002) (online at <http://www.cdc.gov/od/oc/media/pressrel/b020723.htm>).

¹⁷U.S. Department of Agriculture, *Press Conference with Secretary of Agriculture Ann M. Veneman and Undersecretary for Food Safety Elsa Murano Regarding the ConAgra Beef Company Recall* (July 19, 2002) (online at <http://www.usda.gov/news/releases/2002/07/0297.htm>).

**Does CDC Have Access to All the Information Needed
To Link Human Disease to the Contamination at the ConAgra Facility?**

CDC's job in an outbreak investigation is critical: to find the source. In mid-July, CDC conclusively identified the ConAgra facility as the source of human illness by comparing two strains of *E. coli* O157:H7 – one isolated from patient specimens and one identified in the facility itself – and finding they shared the same molecular fingerprint. So far, CDC is reporting that at least 20 human infections and 7 hospitalizations are tied to this specific strain of the bacteria.¹⁸

CDC's ability to link human illness to the contamination in the ConAgra plant, however, may have been limited to just one *E. coli* O157:H7 strain – the bacteria initially identified by USDA in mid-June that was the basis for the recall of May 31 meat. According to news reports, there were also contaminated or possibly contaminated meat samples on at least 25 other days between April 12 and July 11.¹⁹ Distinct *E. coli* O157:H7 strains might have been present in meat produced by ConAgra on these days as well.

During a recent phone briefing with CDC about the agency's role in the outbreak investigation, CDC officials indicated that they do not know whether all of the potentially positive samples from the ConAgra plant were analyzed and posted to the computer database used to match against specimens from human illness. Under current law and regulations, ConAgra is not obligated either to do molecular fingerprinting of *E. coli* O157:H7 or turn over samples to USDA for such tests. CDC officials confirm that they could better define the scope of illness related to the recall if all of the potentially positive samples from the ConAgra plant were analyzed and posted.

CDC is now investigating at least three as-yet-unexplained *E. coli* O157:H7 outbreaks – possibly without all the information the agency needs to link these illnesses to the ConAgra facility. We therefore ask:

- How many separate samples of ConAgra beef have tested positive for *E. coli* O157:H7, including testing by USDA or ConAgra, since April 12, 2002? Of these, how many samples have been tested by molecular fingerprinting and entered into the computer database used by CDC to match bacteria recovered from human patients? If all samples were not tested and entered into the database, why?

¹⁸CDC, Backgrounder (July 23, 2002) (online at <http://www.cdc.gov/od/oc/media/pressrel/b020723.htm>).

¹⁹*Illness Prompts Recall of Beef*, Washington Post (July 20, 2002).

Conclusion

It is a red flag for our nation's food safety system that more than three months passed between production of possibly contaminated meat and its eventual recall. We urge you to provide complete answers to the concerns outlined in this letter and to insist that ConAgra provide USDA and CDC with immediate and full access to information about all *E. coli* O157:H7 strains found in its meat products.

We also want to know what steps you are considering to prevent future distribution of contaminated meat. According to news reports, USDA is considering altering its procedures as a result of the ConAgra recall.²⁰ We are interested in any information you can provide about changes you have made or are contemplating.

Thank you for your prompt attention to this matter. We request a reply by August 9, 2002.

Sincerely,



Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
U.S. House of Representatives



Richard J. Durbin
Chairman
Subcommittee on Oversight of
Government Management,
Restructuring and the District of
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²⁰USDA Plans Crackdown on Beef Inspection, Denver Post (July 24, 2002).